

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:10-cr-66

v.

HON. JANET T. NEFF

FRANCISCO JAVIER RIVERA-HIDALGO,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Francisco Javier Rivera-Hidalgo has filed a motion for modification or reduction of sentence (Dkt 782) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission. The U.S. Probation Department has filed a Sentence Modification Report (Dkt 84), and a Response has been filed by Defendant (Dkt 85), and the Government (Dkt 86).

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

Having fully considered the Sentence Modification Report (Dkt 84) and the Defendant's and Government's Responses (Dkts 85 and 86), the Court has determined that the defendant is eligible for a reduction of sentence according to the policy statements of the U.S. Sentencing Commission.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence (Dkt 782) pursuant to 18 U.S.C. § 3582(c)(2) is GRANTED for the reasons set out in the Government's response brief (Dkt 86). Defendant's sentence is reduced to a total sentence of 132 months, consisting of 72 months on Counts 2 and 3. The 72 month sentence on Count 1 remains the same, and the consecutive mandatory minimum sentence of 60 months on Count 4 remains the same.

DATED: November 30, 2015

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge